



## **Pesticides Exempt from the School Posting, Notification, and Record Keeping Requirements of the Healthy Schools Act of 2000 (HSA)**

To determine whether a particular pesticide product is exempt from the record keeping, posting, and notification requirements of the HSA, answer the following questions.

**Exemptions notwithstanding, DPR recommends that schools keep complete records of *all* pest management activities as part of a sound integrated pest management program.**

**1.) Is the product registered by the United States Environmental Protection Agency and/or the California Department of Pesticide Regulation?**

*Note: A product is registered if you see the “EPA Reg. No.” or “CA Reg. No.” on the label.*

**YES: GO ON TO STEP 2**

**NO: Product may be EXEMPT. GO ON TO STEP 5**

**2.) Is the product an antimicrobial (including sanitizers, disinfectants, and medical sterilants)?**

*Note: The federal language defining antimicrobial pesticides is attached (see Reference 1 attached). If you can’t tell from the label, you can look up specific products on DPR’s website at*

*<http://www.cdpr.ca.gov/docs/label/prodnam.htm>.*

**YES: EXEMPT from HSA record keeping, posting, and notification requirements**

**NO: GO ON TO STEP 3**

**3.) Is the product a self-contained bait or trap?**

*Note: Determining whether a bait or trap is "self-contained" is the responsibility of the user since the law does not specify a definition.*

**YES: EXEMPT from HSA record keeping, posting, and notification requirements**

**NO: GO ON TO STEP 4**

**4.) Is the product a gel or paste deployed as a crack and crevice treatment?**

*Notes:*

- "Gel or paste" refers to the formulation type. If in doubt, check the label or the DPR database at <http://www.cdpr.ca.gov/docs/label/m4.htm>
- "Crack and crevice treatment" is defined under the HSA (see Reference 2 attached).

**YES: EXEMPT from HSA record keeping, posting, and notification requirements**

**NO: NOT EXEMPT. All other registered pesticide products are subject to the posting, record keeping, and notification requirements of the Healthy Schools Act of 2000.**

**That is, the product is registered at the federal and/or California level and**

- **is not an antimicrobial, OR**
- **is not used in a self-contained bait or trap, OR**
- **is not a gel/paste used for crack and crevice treatments.**

5.) If the product is not registered, there are two possibilities:

A.) *The product is illegal for use as a pesticide in California.*

-OR-

B.) The product is specifically exempt from federal registration under the Federal Insecticide, Fungicide and Rodenticide Act (section 25b) (see Reference 3 attached) and California registration under the California Code of Regulations, Section 6147 (see Reference 4 attached or <http://www.cdpr.ca.gov/docs/inhouse/calcode/020101.htm#a6147>) and therefore, EXEMPT from HSA record keeping, posting, and notification requirements.

To ensure your product is exempt from registration, check the ingredients listed on the label. All active and inert ingredients should be listed. In addition, verify that all active ingredients are on the 25(b) list and all inert ingredients are on the category 4(a) list (see Reference 5 attached or [http://www.epa.gov/opprd001/inerts/inerts\\_list4Aname.pdf](http://www.epa.gov/opprd001/inerts/inerts_list4Aname.pdf)).

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## REFERENCE 1

### Definition of antimicrobial pesticides under 7 U.S. Code 136

#### (mm) Antimicrobial pesticide

##### (1) In general

The term "antimicrobial pesticide" means a pesticide that -

##### (A) is intended to -

- (i) disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms; or
  - (ii) protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime; and
- (B) in the intended use is exempt from, or otherwise not subject to, a tolerance under section 346a of title 21 or a food additive regulation under section 348 of title 21.

##### (2) Excluded products

The term "antimicrobial pesticide" does not include -

- (A) a wood preservative or antifouling paint product for which a claim of pesticidal activity other than or in addition to an activity described in paragraph (1) is made;
- (B) an agricultural fungicide product; or
- (C) an aquatic herbicide product.

##### (3) Included products

The term "antimicrobial pesticide" does include any other chemical sterilant product (other than liquid chemical sterilant, products exempt under subsection (u) of this section), any other disinfectant product, any other industrial microbiocide product, and any other preservative product that is not excluded by paragraph (2).

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## REFERENCE 2

### Definition of crack and crevice treatments under the Healthy Schools Act of 2000

17609. The definitions set forth in this section govern the construction of this article unless the context clearly requires otherwise:

- (a) “Antimicrobial” means those pesticides defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136(mm)).
- (b) “Crack and crevice treatment” means the application of small quantities of a pesticide consistent with labeling instructions in a building into openings such as those commonly found at expansion joints, between levels of construction and between equipment and floors...

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## REFERENCE 3

### Federal regulations pertaining to exemption from registration under FIFRA 25(b)

#### Code of Federal Regulations, Title 40, Volume 16

#### 152.25; Exemptions for pesticides of a character not requiring FIFRA regulation.

The pesticides or classes of pesticides listed in this section have been determined to be of a character not requiring regulation under FIFRA, and are therefore exempt from all provisions of FIFRA when intended for use, and used, only in the manner specified.

(a) *Treated articles or substances.* An article or substance treated with, or containing, a pesticide to protect the article or substance itself (for example, paint treated with a pesticide to protect the paint coating, or wood products treated to protect the wood against insect or fungus infestation), if the pesticide is registered for such use.

(b) *Pheromones and pheromone traps.* Pheromones and identical or substantially similar compounds labeled for use only in pheromone traps (or labeled for use in a manner which the Administrator determines poses no greater risk of adverse effects on the environment than use in pheromone traps), and pheromone traps in which those compounds are the sole active ingredient(s).

(1) For the purposes of this paragraph, a pheromone is a compound produced by an arthropod which, alone or in combination with other such compounds, modifies the behavior of other individuals of the same species.

(2) For the purposes of this paragraph, a synthetically produced compound is identical to a pheromone only when their molecular structures are identical, or when the only differences between the molecular structures are between the stereochemical isomer ratios of the two compounds, except that a synthetic compound found to have toxicological properties significantly different from a pheromone is not identical.

(3) When a compound possesses many characteristics of a pheromone but does not meet the criteria in paragraph (a)(2) of this section, it may, after review by the Agency, be deemed a substantially similar compound.

(4) For the purposes of this paragraph, a pheromone trap is a device containing a pheromone or an identical or substantially similar compound used for the sole purpose of attracting, and trapping or killing, target arthropods. Pheromone traps are intended to achieve pest control by removal of target organisms from their natural environment and do not result in increased levels of pheromones or identical or substantially similar compounds over a significant fraction of the treated area.

(c) *Preservatives for biological specimens.*

(1) Embalming fluids.

(2) Products used to preserve animal or animal organ specimens, in mortuaries, laboratories, hospitals, museums and institutions of learning.

(3) Products used to preserve the integrity of milk, urine, blood, or other body fluids for laboratory analysis.

(d) *Foods.* Products consisting of foods and containing no active ingredients, which are used to attract pests.

(e) *Natural cedar.*

(1) Natural cedar blocks, chips, shavings, balls, chests, drawer liners, paneling, and needles that meet all of the following criteria:

(i) The product consists totally of cedarwood or natural cedar.

(ii) The product is not treated, combined, or impregnated with any additional substance(s).

(iii) The product bears claims or directions for use solely to repel arthropods other than ticks or to retard mildew, and no additional claims are made in sale or distribution. The labeling must be limited to specific arthropods, or must exclude ticks if any general term such as “arthropods,” “insects,” “bugs,” or any other broad inclusive term, is used. The exemption does not apply to natural cedar products claimed to repel ticks.

(2) The exemption does not apply to cedar oil, or formulated products which contain cedar oil, other cedar extracts, or ground cedar wood as part of a mixture.

(f) *Minimum risk pesticides—*

(1) *Exempted products.* Products containing the following active ingredients are exempt from the requirements of FIFRA, alone or in combination with other substances listed in this paragraph, provided that all of the criteria of this section are met.

Castor oil (U.S.P. or equivalent)  
Cedar oil  
Cinnamon and cinnamon oil  
Citric acid  
Citronella and citronella oil  
Cloves and clove oil  
Corn gluten meal  
Corn oil  
Cottonseed oil  
Dried blood  
Eugenol  
Garlic and garlic oil  
Geraniol  
Geranium oil  
Lauryl sulfate  
Lemongrass oil  
Linseed oil  
Malic acid  
Mint and mint oil  
Peppermint and peppermint oil  
2-Phenethyl propionate (2-phenylethyl propionate)  
Potassium sorbate  
Putrescent whole egg solids  
Rosemary and rosemary oil  
Sesame (includes ground sesame plant) and sesame oil  
Sodium chloride (common salt)  
Sodium lauryl sulfate  
Soybean oil  
Thyme and thyme oil  
White pepper  
Zinc metal strips (consisting solely of zinc metal and impurities)

(2) *Permitted inerts.* A pesticide product exempt under paragraph (f)(1) of this section may only include inert ingredients listed in the most current List 4A. This list is updated periodically. The most current list may be obtained by contacting the Registration Division at the appropriate address as set forth in 40 CFR 150.17(a) or (b).

(3) *Other conditions of exemption.* All of the following conditions must be met for products to be exempted under this section:

- (i) Each product containing the substance must bear a label identifying the name and percentage (by weight) of each active ingredient and the name of each inert ingredient.
- (ii) The product must not bear claims either to control or mitigate microorganisms that pose a threat to human health, including but not limited to disease transmitting bacteria or viruses, or claims to control insects or rodents carrying specific diseases, including, but not limited to ticks that carry Lyme disease.
- (iii) The product must not include any false and misleading labeling statements, including those listed in 40 CFR 156.10(a)(5)(i) through (viii).

[53 FR 15977, May 4, 1988, as amended at 59 FR 2751, Jan. 19, 1994; 61 FR 8878, Mar. 6, 1996; 66 FR 64764, Dec. 14, 2001; 71 FR 35545, June 21, 2006]

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## REFERENCE 4

### California regulations pertaining to pesticides exempt from registration (3 CCR 6147)

#### Title 3 (Food and Agricultural Code), Division 6, Chapter 2, Section 6147. Exempted Pesticide Products.

- (a) Manufacturers of, importers of, and dealers in the following pesticide products or classes of pesticide products are exempt from the requirements of Division 7 of the Food and Agricultural Code, provided the pesticide products are exempt pursuant to section 25(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. sec. 136w(b)(2)]:
- (1) Pheromones and identical or substantially similar compounds labeled for use only in pheromone traps (or labeled for use in a manner which the Director determines poses no greater risk of adverse effects on the environment than use in pheromone traps), and pheromone traps in which those compounds are the sole active ingredient(s), as specified in 40 Code of Federal Regulations 152.25(b).
  - (2) Preservatives for biological specimens, including:
    - (A) Embalming fluids;
    - (B) Products used to preserve animal or animal organ specimens, in mortuaries, laboratories, hospitals, museums and institutions of learning; and
    - (C) Products used to preserve the integrity of milk, urine, blood, or other body fluids for laboratory analysis.
  - (3) Products consisting of foods that are used to attract pests and which contain no active ingredient(s).
  - (4) (A) Natural cedar blocks, chips, shavings, balls, chests, drawer liners, paneling, and needles that meet all of the following criteria:
    1. The product consists totally of cedar wood or natural cedar.
    2. The product is not treated, combined, or impregnated with any additional substance(s).
    3. The product bears claims or directions for use solely to repel arthropods other than ticks or to retard mildew, and no additional claims are made in sale or distribution. The labeling must be limited to specific arthropods, or must exclude ticks if any general term such as "arthropods," "insects," "bugs," or any other broad inclusive term is used.(B) The exemption does not apply to natural cedar products claimed to repel ticks. The exemption also does not apply to cedar oil, or formulated products, which contain cedar oil, other cedar extracts, or ground cedar wood as part of a mixture.
  - (5) (A) Products containing the following active ingredients alone or in combination with other substances listed in paragraph (5)(A), provided that all the criteria specified in paragraphs (5)(C) and (5)(D) are met:

Castor oil (U.S.P. or equivalent)  
Cedar oil <sup>1</sup>  
Cinnamon  
Cinnamon oil <sup>1</sup>  
Citric acid <sup>1</sup>  
Citronella (non-topical uses only)  
Citronella oil (non-topical uses only)  
Cloves <sup>2</sup>  
Clove oil <sup>1, 2</sup>  
Corn gluten meal  
Corn oil  
Cottonseed oil  
Dried blood  
Eugenol <sup>1, 2</sup>  
Garlic  
Garlic oil <sup>1</sup>  
Geraniol <sup>2</sup>  
Geranium oil <sup>2</sup>  
Lauryl sulfate <sup>1</sup>  
Lemongrass oil <sup>1</sup>  
Linseed oil  
Malic acid <sup>1</sup>  
Mint

Mint oil <sup>1</sup>  
 Peppermint <sup>2</sup>  
 Peppermint oil <sup>1, 2</sup>  
 2-Phenethyl propionate (2-phenylethyl propionate) <sup>1</sup>  
 Potassium sorbate <sup>1</sup>  
 Putrescent whole egg solids  
 Rosemary <sup>2</sup>  
 Rosemary oil <sup>1, 2</sup>  
 Sesame (includes ground sesame plant)  
 Sesame oil  
 Sodium chloride (common salt)  
 Sodium lauryl sulfate <sup>1, 2</sup>  
 Soybean oil  
 Thyme <sup>2</sup>  
 Thyme oil <sup>1, 2</sup>  
 White pepper <sup>1</sup>  
 Zinc metal strips (consisting solely of zinc metal and impurities)

<sup>1</sup> Products containing 8.5% or more of this active ingredient in the formulated product must at a minimum bear the signal word “CAUTION,” the phrase “Keep Out of Reach of Children,” appropriate precautionary language, and a requirement for appropriate protective eyewear and gloves.

<sup>2</sup> Products containing this active ingredient intended for topical application to human skin must at a minimum bear the signal word “CAUTION,” the phrase “Keep Out of Reach of Children,” a dermal sensitization precautionary statement, a prohibition against application to the hands of children, and use directions requiring adult supervision during application to children.

- (B) Topical use products containing less than or equal to 1% of the following active ingredients alone or in combination with each other, provided: the product label carries as a minimum the signal word “CAUTION,” the phrase “Keep Out of Reach of Children,” a dermal sensitization precautionary statement, a prohibition against application to the hands of children, and use directions requiring adult supervision during application to children, and (ii) all the criteria specified in paragraphs (5)(C) and (5)(D) are met:
  - Citronella
  - Citronella oil
- (C) A pesticide product exempt under paragraphs (5)(A) and (5)(B) of subsection (a) may include as inert ingredients only those substances listed in the U.S. Environmental Protection Agency’s most current List 4A “Inerts of Minimal Concern.” U.S. EPA’s list of minimal risk inert ingredients is updated periodically and is published in the Federal Register.
- (D) In addition, all of the following conditions must be met for products to be exempted under subsection (a)(5):
  - 1. Each product containing the substance must bear a label identifying the name and percentage (by weight) of each active ingredient and the name of each inert ingredient.
  - 2. The product must not bear claims either to control or mitigate microorganisms that pose a threat to human health, including but not limited to disease transmitting bacteria or viruses, or claims to control insects or rodents carrying specific diseases, including, but not limited to ticks that carry Lyme disease.
  - 3. The product must not include any false and misleading labeling statements, including those listed in 40 CFR 156.10(a)(5)(i) through (viii).
- (b) Whenever the manufacturer of, importer of, or dealer in any product exempted pursuant to this section has factual or scientific evidence of any adverse effect or risk to human health or the environment that has not previously been submitted to the department, the manufacturer, importer, or dealer shall report the evidence to the department within 60 days of learning of the information.

NOTE: Authority cited: Section 11456, 12781, and 12803, Food and Agricultural Code.  
 Reference: Section 12803, Food and Agricultural Code.



**REFERENCE 5 - Pesticide inert ingredients on the U.S. EPA “4A” inert list. See September 28, 1994 Federal Register (59 FR 49400) for details.**

Acetic acid	Dextrin	Oyster shells
Agar	Dextrose	Paper
Alfalfa	Dolomite	Paprika
Alfalfa meal	Douglas-fir bark, ground	Paraffin wax
Almond hulls	Eggs	Peanut butter
Almond shells	Egg Shells	Peanut oil
Alpha cellulose	Edible fish meal	Peanuts
Apple pomace	Edible fish oil	Peanut shells
Attapulgate-type clay	Flour	Peat moss
Beef fat	Fuller's earth	Pecan shell flour
Beeswax	Gelatin	Pectin
Beet powder	Glue, as depolymerized animal collagen	Polyethylene film
Bentonite	Glycerin	Polyethylene pellets
Bone Meal	Granite	Potatoes
Bran	Grape pomace	Pumice
Bread crumbs	Graphite	Raisins
Calcareous shale	Ground oats	Red cedar chips
Calcite	Guar gum	Red dog flour
Calcium carbonate	Gum arabic	Rice
Canary seed	Gum tragacanth	Rice hulls
Cane syrup	Gypsum	Rubber
Carbon dioxide	Hearts of corn flour	Rye Flour
Cardboard	Hydrogenated vegetable oils	Safflower oil
Carrageenan	Honey	Sawdust
Carrots	Invert sugar	Seaweed, edible
Casein	Invert syrup	Shale
Cheese	Kaolinite-type clay	Soapstone
Chlorophyll	Lactose	Sodium bicarbonate
Cinnamon	Lanolin	Sodium chloride
Citric acid	Lard	Sorbitol
Citrus meal	Latex	Soybean hulls
Citrus pectin	Lecithin	Soybean meal
Citrus pulp	Lime	Soybean oil
Clam shells	Limestone	Soy flour
Cloves	Linseed oil	Soy protein
Cocoa	Malt flavor	Sucrose
Cocoa shells	Meat meal	Sugarbeet meal
Coco shell flour	Meal scraps	Sunflower seeds
Cod liver oil	Medicated feed	Tallow
Coffee grounds	Mica	Vanillin
Cookies	Milk	Vermiculite
Cork	Millet seed	Vitamin C
Corn	Mineral oil, U.S.P.	Vitamin E
Corn cobs	Molasses	Walnut flour
Corn flour	Montmorillonite- type clay	Walnut shells
Corn meal	Nitrogen	Water
Corn oil	Nutria meat	Wheat
Cornstarch	Nylon	Wheat germ oil
Corn syrup	Oatmeal	Whey
Cotton	Oats	Wintergreen oil
Cottonseed meal	Olive oil	Wool
Cottonseed oil	Onions	Xanthan gum
Cracked oats	Orange pulp	Yeast
Cracked wheat		